

ZB# 93-41

James Moroney

4-1-9.22

Prelim.

Sept. 27, 1993.

Need copies of:

① ~~Deed~~ ~~at home~~

② Title Report - none available

③ Photos

④ Fees: ① 150.00.4

② 482.00.4

Notice to Sentinel 10/1/93 4

Applicant to contact

b.s. for new N.O.D. & have

Motion to schedule P.H.

~~Need that Notice of Denial~~

Public Hearing:

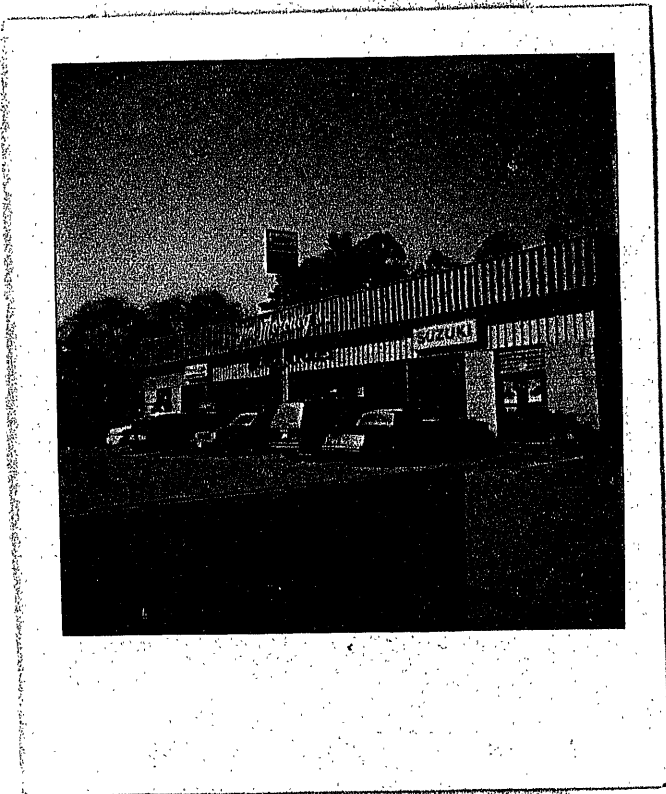
October 25, 1993.

Granted

Area/sign

#93-41 - Moroney, James
Area.

107/29 - Suburban Homes Lt. 22



TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

October 20 1993 13660

Received of Jim Moroney's Inc. \$ 150.00
One Hundred Fifty and 00/100 DOLLARS

For 3 BA 93-41

DISTRIBUTION:

FUND	CODE	AMOUNT
<u>CB 4638</u>		<u>150.00</u>

By Pauline G. Townsend
Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Moroney, James

FILE # 93-41

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE

\$ 150.00 paid ck 4638

* * * * *

ESCROW DEPOSIT FOR CONSULTANT FEES

\$ 292.00 paid ck 4639
10/20/93

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 9/27/93 \$ _____
2ND PRELIM. MEETING - PER PAGE \$ _____
3RD PRELIM. MEETING - PER PAGE \$ _____
PUBLIC HEARING - PER PAGE \$ _____
PUBLIC HEARING (CONT'D) PER PAGE \$ _____

TOTAL \$ _____

ATTORNEY'S FEES:

PRELIM. MEETING- _____ HRS. \$ _____
2ND PRELIM. _____ HRS. \$ _____
3RD PRELIM. _____ HRS. \$ _____
PUBLIC HEARING _____ HRS. \$ _____
PUBLIC HEARING _____ HRS. (CONT'D) \$ _____
FORMAL DECISION _____ HRS. \$ _____

TOTAL HRS. _____ @ \$ _____ PER HR. \$ _____
TOTAL \$ _____

MISC. CHARGES:

Postage - 12 letters @ 29¢ ea. \$ _____
TOTAL \$ 3.48

LESS ESCROW DEPOSIT \$ _____
(ADDL. CHARGES DUE) \$ _____
REFUND TO APPLICANT DUE \$ _____

(ZBA DISK#7-012192.FEE)

-----X

In the Matter of the Application of

JAMES MORONEY

DECISION
GRANTING AREA
& SIGN VARIANCES

#93-41.

-----X

WHEREAS, JAMES MORONEY, 813 Union Avenue, New Windsor, New York 12553, has made application before the Zoning Board of Appeals for the following variances: (1) 26 ft. side yard, (2) 44 ft. total side yard, (3) 15.75 maximum building height, (4) 36 parking spaces, (5) 60 s.f. sign area for freestanding sign, (6) 98 s.f. sign area for wall sign, (7) one freestanding sign to allow a total of two freestanding signs in a zone where only one freestanding sign is permitted, and (8) five wall signs to allow a total of six wall signs in a zone where only one wall sign is permitted, in order to construct two (2) additions to his motorcycle shop located at 813 Union Avenue in a C zone; and

WHEREAS, a public hearing was held on the 25th day of October, 1993, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicant was represented at said public hearing by Greg Shaw P. E. of Shaw Engineering, who spoke in support of the application; and

WHEREAS, there were no spectators present at the public hearing; and

WHEREAS, there was no opposition to the application before the Board; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations relating to side yard, total side yard, maximum building height, minimum number of off street parking spaces, sign area for freestanding signs, sign area for wall mounted signs, total number of freestanding signs, and total number of wall mounted signs in order to construct two additions to his principal building at the Union Avenue location in a C zone.

3. The evidence presented by the applicant substantiated the fact that variances for less than the allowable side yard, total side yard, more than the allowable building height, less than the minimum number of required parking spaces, more than the

allowable sign area for freestanding signs, sign area for wall signs, total number of freestanding signs and total number of wall signs all would be required in order to allow the construction of the two additions to the principal building at applicant's location; the first addition to square off the southeasterly corner of the existing building and will enclose approximately 1,247 s.f. and the second addition to be located to the north of the property and will enclose approximately 3,136 s.f.

4. The evidence presented on behalf of the applicant indicated that the applicant purchased the subject lot in 1973 and that the lot size has remained unchanged at least since that time. The premises were zoned GB at the time of the applicant's purchase of the same, and later were rezoned to OLI, and still later were rezoned to the present C zone.

5. The evidence presented by the applicant's representative further indicated that on January 3, 1973 this Board granted a use variance to permit the applicant to conduct motorcycle sales, service and parts business at this location. Later, on March 11, 1985, this Board granted two area variances, to wit, a 42 ft. side yard variance and a 12 ft. building height variance, to permit the now-existing structures on the subject premises.

6. The evidence presented by the applicant's agent indicated that the applicant, in order to remain competitive in the motorcycle business, decided to add a new line of motorcycles (Yamaha) to his inventory. The addition of a new line of motorcycles created a need for additional space for display, inventory and additional signage in order to advertise the existence of the several brands of motorcycles available at this location.

7. The evidence presented by the applicant's agent indicated that the neighborhood surrounding the subject site is devoted to mixed uses. The properties in the neighborhood of the subject site which front on Union Avenue, a four-lane highway, are used for a restaurant, motel, Town of New Windsor Garage, office building, vacant lot and gasoline filling station and service repair garage. The aforesaid mixed uses are all along the west side of Union Avenue. The New York State Thruway runs to the rear of the lots fronting on the west side of Union Avenue. The east side of Union Avenue is undeveloped and is part of the watershed for Washington Lake, the City of Newburgh's water supply.

8. It is the finding of this Board that the proposed additions to the principal building, which will be devoted to a use permitted in the C zone, will expand the scope of the applicant's motorcycle sales, service and parts business, but will not generate substantially greater impacts on the neighboring properties than are presently generated by the applicant's operation on the site.

9. The evidence presented by the applicant's representative substantiated the fact that there were no economically feasible alternatives to the proposed additions for which the applicant

seeks variances. Although the applicant finds himself in a position in which he must expand his building to remain competitive, he cannot afford to purchase additional land, if in fact such land is available at all, to accommodate the addition.

10. The proposed additions cannot be located in alternative positions on the site without creating the need for variances which are at least as great, or greater than those which are sought on this application, or without incurring a prohibitive expense. This applicant cannot expand significantly to the front without creating the need for a substantial front yard variance. The applicant cannot expand to the rear without a substantial excavation of the steep slope to the rear, and the creation of retaining walls. This alternative is deemed to be too expensive and may create the need for area variances anyway.

11. The applicant's proposed addition at the southeast corner of the existing building would not extend any closer to the side property line than the existing covered storage area on that side of the building. The proposed side yard, total side yard, and maximum building height variances created by the proposed addition do not differ dramatically from the earlier area variances granted for the site. The applicant's operations on the site apparently have not generated any adverse impacts on the neighborhood since no one appeared at the public hearing to object to the requested variances.

12. It is the finding of this Board that, given the constraints of the site, the proposed location for the additions to the principal building are the only practical and suitable locations therefore and have the least adverse impacts on the neighborhood and the applicant.

13. Given these factors, it is the finding of this Board that the proposed additions will not have an adverse effect on property values in the neighborhood.

14. In considering this application, this Board finds that the applicant's use of the site is more akin to a retail store, in considering the applicable bulk regulations, than to a motor vehicle sales, repair and service establishment. Both are uses permitted by right in the C zone (although the applicant's use of the site, for motorcycle sales, service and parts pre-exists the rezoning to C pursuant to the January 3, 1973 use variance). Clearly the applicant is operating a motor vehicle sales, repair and service establishment. However, it is the finding of this Board that the greater bulk requirements of that use (and the lower minimum number of off street parking spaces) are more applicable to an establishment devoted to sales of cars and trucks, than to motorcycles. The bulk of the stock in trade at a car and truck dealer is stored out doors. The applicant stores all of his stock in trade of motorcycles indoors. Consequently the applicable bulk regulations for a retail store seem more appropriate and are applied here.

15. The aforesaid finding of the Board reduces most of the bulk requirements for the applicant, with the relevant exception of maximum building height and the minimum number of off street

parking spaces, both of which are dramatically increased. the marginal increase in the maximum building height variance above the previously granted maximum building height variance is not deemed to be a significant impact since the applicant is merely enclosing an existing covered storage area, not creating a higher building.

16. The substantial variance requested for the minimum number of off street parking spaces is found to be warranted here solely because of the applicant's use of the site for motorcycle sales, service and parts. Consequently the variance herein granted of 36 parking spaces, to allow the applicant only 22 offstreet parking spaces where 58 are required is conditioned on the site being used for motorcycle sales, service and parts. It is not the intention of this Board to allow such a substantial parking space variance for general retail sales on the site.

17. A review of the application and the site plan submitted therewith disclosed a patent error in that the applicant erroneously calculated the need for a 26 parking space variance when a 36 parking space variance was required. Despite this mathematical error, this Board clearly understood applicant's proposal, which generated no opposition, and herein grants a 36 parking space variance which the applicant should have requested in his application.

18. The evidence presented by applicant substantiated the fact that the variance, if granted, would not have a negative impact on the physical or environmental conditions in the neighborhood since the applicant's use is consistent with the character of the neighborhood. The motorcycle dealership has been located in the area since 1973 and since there were no spectators appearing at the public hearing, this was a good indication that adjacent neighbors do not harbor adverse opinions regarding the applicant's present operations or its proposed construction.

19. The evidence presented by applicant's agent indicated that applicant is seeking sign variances for free-standing signs and wall signs on a piece of commercial property located on one of the most highly traveled roadways in the town. The speed limit allows vehicles to travel at approximately 45 m.p.h. as they traverse this relatively busy highway which links the Town of New Windsor with the Town of Newburgh. Since applicant has added another line of products to his existing lines of motorcycles, applicant feels that the only way the traveling public may be apprised of this fact is by additional logo signage which is typical of the aforementioned competitive industry. Therefore, applicant feels that the additional signage is required under the circumstances.

20. Given the applicant's site on a busy highway, not far from its intersection with NYS Route 207, which is the major access artery to Stewart International Airport, it is absolutely essential that the applicant have clear signage which quickly identifies the applicant's business at the site.

21. Although the sign area and number of sign variances

requested by the applicant are quite substantial, it is the finding of this Board that the proposed signage is fair and adequate for the applicant's use, given the condition of the neighborhood and the heavily traveled roads in the area.

22. The evidence presented showed that the proposed signage will facilitate ready identification of the applicant's business by passing motorists.

23. The subject parcel is located in a commercial zone and all nearby commercial properties have signs to promote their businesses, including similar freestanding and wall signage, many of which are larger and/or greater in number than what is permitted in the C zone.

24. It is the finding of this Board that the requested variance for side yard, total side yard, maximum building height minimum number of off street parking spaces, sign area for freestanding signs, sign area for wall mounted signs, total number of freestanding signs, and total number of wall mounted signs are not unreasonable and will not adversely impact the public health, safety and welfare.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The parcel is presently being used for uses permitted by right in the C zone and the proposed construction will enlarge a permitted use and is consistent with the character of the neighborhood. The proposed signage also is consistent with the character of the neighborhood.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variances for side yard and maximum building height are not substantial in relation to the bulk regulations given the fact that they represent only a marginal increase over previously granted variances and the additional impact resulting therefrom is negligible. The requested variances for total side yard, minimum number of off street parking spaces, sign area for freestanding signs, sign area for wall mounted signs, total number of freestanding signs, and total number of wall mounted signs, are substantial in relation to the bulk regulations. However, the Board has concluded that the granting of the requested substantial variances are warranted here because the site is used in conformity with the character of the neighborhood and represents a reasonable balancing of the applicant's need to expand, identify and promote its business on the site and the need to protect the health, safety and welfare of the public, considering the location of the site on a well traveled highway near a busy intersection.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the

neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is partially self-created. The lot size and its siting on a narrow commercial strip between well defined boundaries are factors which long predated the instant application and are not in the nature of self-created difficulties. The applicant's development of the site, pursuant to previous variances granted by this Board, has now put the applicant in a position where further expansion is creating the need for even greater variances. This is a self-created difficulty which the applicant is seeking to overcome in the appropriate manner by submitting the instant application. It is the finding of this Board that the granting of the additional variances sought herein is warranted because the development of the area and the applicant's use of the property are consistent with each other and do not adversely impair the public health, safety and welfare.

6. It is the finding of this Board that the benefit to the applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested variances are the minimum variances necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested variance.

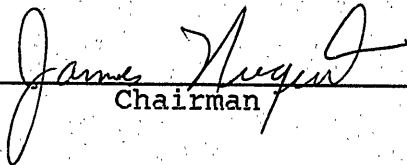
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 26 ft. side yard variance, 44 ft. total side yard variance, 15.75 ft. maximum building height variance, 36 parking space variance to allow a total of 22 parking spaces in a zone, and for a use group where 58 is the minimum number of off street parking spaces, and the aforesaid 36 parking space variance is granted SUBJECT to the condition that the site continue to be used for motorcycle sales, service and parts, i.e. its present use, and such 36 parking space variance specifically is not herein granted for general retail sales on this site, a 60 s.f. sign area variance for freestanding signs, 98 s.f. sign area variances for wall signs, a variance for one freestanding sign to allow a total of two freestanding signs in a zone where only one freestanding sign is permitted, and a variance for five wall signs to allow a total of six wall signs in a zone where only one wall sign is permitted, all for construction of two additions to the principal building at the Jim Moroney Cycle Center at the above location in a C zone, as sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: January 10, 1994.


Chairman

(ZBA DISK#9-121593.JM)

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

93-41

Date: 10/06/93

I. Applicant Information:

- (a) MORONEY, JAMES - 813-817 Union Avenue, New Windsor, N. Y. 12553 x
(Name, address and phone of Applicant) (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) Shaw Engineering, 744 Broadway, Newburgh, N. Y. 12550
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☒ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. Property Information:

- (a) C 813-817 Union Avenue, New Windsor, NY 4-1-9.22 1.08 acres +
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 10/26/71
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? Yes
If so, when? 1/3/73 and 3/11/85.
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a
- _____
- _____
- _____
- _____

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____
- _____
- _____
- _____

n/a
 (b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. F,I.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area <u>40,000 s.f.</u>	<u>47,045 s.f.</u>	<u>-</u>
Min. Lot Width <u>200 ft.</u>	<u>200 ft.</u>	<u>-</u>
Reqd. Front Yd. <u>60 ft.</u>	<u>66 ft.</u>	<u>-</u>
Reqd. Side Yd. <u>30 ft.</u>	<u>4 ft.</u>	<u>26 ft.</u>
Total Side Yd. <u>70 ft.</u>	<u>26 ft.</u>	<u>44 ft.</u>
Reqd. Rear Yd. <u>30 ft.</u>	<u>53 ft.</u>	<u>-</u>
Reqd. Street Frontage* <u>n/a</u>	<u>200 ft.</u>	<u>-</u>
Max. Bldg. Hgt. <u>4"/ft.=1.25 ft.</u>	<u>17 ft.</u>	<u>15.75 ft.</u>
Min. Floor Area* <u>n/a</u>	<u>n/a</u>	<u>-</u>
Dev. Coverage* <u>n/a</u> %	<u>n/a</u> %	<u>-</u> %
Floor Area Ratio** <u>0.50</u>	<u>0.37</u>	<u>-</u>
Parking Area <u>58 spaces</u>	<u>22 spaces</u>	<u>26 spaces</u>

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(See attached recitation)

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law,
Section 48-12, Table of Use/Bulk Regs., Col. N.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1-Freestanding	<u>40 s.f.</u>	<u>100 s.f.</u>	<u>60 s.f.</u>
Sign 2-Wall	<u>20 s.f.</u>	<u>118 s.f.</u>	<u>98 s.f.</u>
Total- Sign 3-Freestanding	<u>1 sign</u>	<u>2 signs</u>	<u>1 sign</u>
Total- Sign 4-Wall	<u>1 sign</u>	<u>6 signs</u>	<u>5 signs</u>

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(See attached sign proposal for wall and free-standing signs.)

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?
218 s.f. of existing sign area

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law,
Section _____, Table of _____ Regs.,
Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

(See attached site plan and recitation).

IX. Attachments required:

- x Copy of referral from Bldg./Zoning Insp. or Planning Bd.
x Copy of tax map showing adjacent properties.

The applicant is seeking area and sign variances at his motorcycle shop located in a C zone. The nature of the variances sought consist of bulk variances and sign variances.

The applicant will present testimony at the hearing to demonstrate that there will be no undesirable change produced in the character of the neighborhood and no detriment to nearby properties by the granting of the area variances. The applicant proposes to construct additions to his motorcycle shop which has existed at its present location since 1973. The use is a permitted use in the Town of New Windsor Zoning Local Law. The applicant's proposal for construction of the additions takes into consideration the neighborhood and the surrounding properties.

The applicant is seeking a 26 ft. side yard and 44 ft. total side yard variance; the required side yard is 30 ft. and applicant has 4 ft. available. The required total side yard is 70 ft.; applicant has 26 ft. Applicant is also seeking a 15.75 ft. maximum building height variance and off-street parking variance of 26 spaces.

The applicant finds himself in a bind because he must expand his building in order to accommodate the inventory which he has to keep on hand in order to remain competitive. The existing building has been at the same location since 1973 and the parcel of property which houses Moroney's Cycle Center cannot be expanded in area or width to accommodate the proposed additions. The size of the proposed additions is necessary for the efficient operation of the applicant's activities. The height variance becomes necessary because of the height ratio requirements of the Town of New Windsor Zoning Code and the height of the proposed addition is related to the type of storage necessary for applicant's operation.

Applicant believes that the requested sign variances should be acted upon favorably as well in order to provide applicant with fair and adequate signage. The signs have been in existence at the site. The most substantial sign relates to a wall mounted sign which is the least intrusive of all signage because it is a part of the building itself.

The applicant submits that the extent of the variances sought are not substantial, particularly since the wall mounted signage is in essence a part of the building and is an identification sign of the applicant's business and is his trademark in a sense.

The applicant will present testimony to support the proposition that the granting of the variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

The applicant believes that if these variances are granted that they will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.

There is no other method which applicant can feasibly pursue other than the variances sought in this application.

In view of all of the facts and circumstances presented to this Board, applicant respectfully requests that the variances sought be granted.

JIM MORONEYS CYCLE SHOP

WALL SIGNS

<u>DESIGNATION</u>	<u>DESCRIPTION</u>	<u>SIDES</u>	<u>PROVIDED</u> <u>TOTAL SIZE/DIMENSIONS</u>	<u>ALLOWED</u>	<u>VARIANCE NEEDED</u>
Sign No. 1	JIM MORONEYS	1	30 SF (1.5 Ft. x 20 Ft.)	20 SF	10 SF
Sign No. 2	MOTORCYCLES	1	40 SF (2 Ft. x 20 Ft.)		40 SF
Sign No. 3	SKI-DOO	2	12 SF (2 Ft. x 3 Ft.)		12 SF
Sign No. 4	HARLEY-DAVIDSON	1	12 SF (2 Ft. x 6 Ft.)		12 SF
Sign No. 5	SUZUKI	1	12 SF (2 Ft. x 6 Ft.)		12 SF
Sign No. 6	YAMAHA	1	12 SF (2 Ft. x 6 Ft.)		12 SF
					<u>98 SF</u>

VARIANCE NO. 1: 98 SF

VARIANCE No. 2: 5 SIGNS

FREE STANDING SIGNS

<u>DESIGNATION</u>	<u>DESCRIPTION</u>	<u>SIDES</u>	<u>PROVIDED</u> <u>TOTAL SIZE/DIMENSIONS</u>	<u>ALLOWED</u>	<u>VARIANCE NEEDED</u>
Sign No. 1	HARLEY-DAVIDSON	1	30 SF (6 Ft. x 5 Ft.)	40 SF	0 SF
	JIM MORONEYS	1	10 SF (2 Ft. x 5 Ft.)		
Sign No. 2	HARLEY-DAVIDSON	2	20 SF (2 Ft. x 5 Ft.)		60 SF
	SUZUKI	2	20 SF (2 Ft. x 5 Ft.)		
	YAMAHA	2	20 SF (2 Ft. x 5 Ft.)		
					<u>60 SF</u>

VARIANCE NO. 1: 60 SF

VARIANCE No. 2: 1 SIGN

MORONEY, JAMES

MR. NUGENT: Request for 26 ft. side yard, 44 ft. total side yard, 15.75 maximum building height, 26 parking area variances and sign variances in order to construct addition at Moroney's Cycle Center on Union Avenue in a C zone.

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this application.

MR. LUCIA: If I can add one thing, the agenda item I believe did not refer to specifics of your sign variance question so just so we have them on the record at the outset of the public hearing, looks like sign number one is looking for a 60 square foot variance request that is freestanding sign number one. Sign number 2, which is a wall sign requires a 98 square foot variance, total sign, total freestanding sign, I'm sorry, we need a variance for one sign as they are two signs, only allowed one, so we need a variance for one freestanding sign and wall signs, it appears that there are 6 wall signs, only one is permitted so that is a variance for 5 wall signs.

MR. TORLEY: Where are the signs?

MR. SHAW: Ask and you shall receive. Pass them around. Maybe what I'd also like to pass out, going through the file, those photographs were taken today may I add and they are to support the application before you. What I also have are photographs. When I last appeared before this board for this applicant was in 1985 and you'll see that the signs that we're requesting the variances for today were existing back in 1985 so they have been around for a while. And what I have done on this form is I've delineated each and every sign both with respect to its name and its dimensions and its total area so the record should be very clear as to what signs we're asking a variance for and what we're permitted. As your attorney presented before you, we're asking for 4 variances. Variance number one being a side yard setback one, we're required to provide 30 feet, we're providing 47 feet, a side yard setback both, we're required to provide a

total of 70 feet, we're providing 26, a maximum building height we're allowed only one foot three inches, which is based upon four inches per foot to the nearest lot line and again we're requesting a variance for 15 feet 9 inches and the final is on parking, what we're requesting is a variance of 26 spaces, we're required to provide 28 and we're providing 22. When we were before this board, I believe it was four weeks ago, we discussed the additions as are reflected on the site plan and whether or not the, just group A1 would be appropriate that being for retail stores or another use group that being for motor vehicle sales would be appropriate and the board directed me to use the A1 retail stores and that is what the denial from Mike Babcock's office represents. What we're proposing are 2 additions, addition number one is 1,247 square feet and that is to the south side of the building and addition number two, which is on the north side of the building is 3,136 feet. You'll notice and I've presented a schedule and the zoning schedule delineating the retail space and a warehouse space both for the existing facility, the new additions and totals so you'll be able to get a feel for the type of facility that Jim Moroney Cycle Shop exists. In going over the criteria for the granting of a variance, there are 5 points and you have mentioned them to other applicants also tonight and a couple of them deal with the character of the neighborhood, whether there will be an undesirable change or whether it will be an adverse impact on the physical or environmental conditions. I had an opportunity today to take a close look at that area, that being from where Steak and Stein is at the Town of Newburgh Town of New Windsor line to the Mobil Station to Route 207. That is approximately 2,500 lineal feet that is in the Town between those two extremities. On opposite or to the east of the site, we have Washington Lake, which is the water supply of the City of Newburgh so that identifies the character of the neighborhood. To the west, we have New York State Thruway so we're pretty much dealing with just the strip of Union Avenue in that 2,500 feet, we have Steak and Stein, we have I believe it's the Town of New Windsor Garage, we have an office building and we have Moroney's and then we have the Mobil Station. That is all within 2,500 lineal feet,

it's not a very well developed area. In fact, the parcel to the immediate south of the Moroney Cycle Shop is a vacant parcel of land and that to the immediate north is an office building so we feel that requesting for these variances will not change the character of the neighborhood nor have a significant impact. This application was last before your board for other variances in 1985 and I bring up this information just to support our claim for the variances tonight and in 1985, this Zoning Board of Appeals determined that it was appropriate to grant a 42 foot side yard setback for one setback and tonight we're asking for a variance substantially less than that, we're asking for a side yard of 26 feet, as I said and that is considerably less than the 42 feet this board granted in 1985. Also in that year '85 the board granted a 12 foot variance to the building height. We're asking for a variance of 15.75 feet. Again, the point being that the character of the neighborhood is established really has not changed since 1985 and the board felt it was appropriate in '85 to grant those two variances and I hope that you come to the same conclusion tonight. Going back just a little bit further, the lot was originally built on in 1973, that is when Mr. Moroney owned and constructed the initial building which was approximately 10,000 square feet. At that point in time, he got a use variance. The zoning at that time was OLI and I believe it remained OLI up until recently a couple years ago where it's now in a C zone. So, with that, that is a brief overview of the history of this site, the ownership, the variances and the previous variances and the variances before you. And I'd be happy to entertain questions you might have.

MR. LUCIA: Greg, if you don't mind, I know it's in your application but just have a layout orally some of the other requirements of 267B specifically can the benefit which the applicant seeks be achieved by some other method feasible for the applicant to pursue other than an area variance.

MR. SHAW: No. Mr. Moroney has reached a point where in order to be competitive in the industry, that he is in he had to bring on a new line and that would be for the Yamaha and the lot is established, it was

established back in 1973 and the only way to expand it is not upward, especially with his type of business is to expand outward. And it is not feasible at this time to contemplate the purpose of additional property from adjacent neighbors just to offset variances.

MR. LUCIA: Can the request, is the requested area variance substantial in that is in terms of numbers?

MR. SHAW: Is the requested area variance substantial, no, it is not substantial. Again, the neighborhood being what it was eight years ago, we are requesting a side yard variance of, bear with me again of 26 feet, it was not substantial at least this board did not determine it to be substantial in 1985 when 42 feet was granted. And I may point out that the addition which is probably causing the greatest constraint which is addition number one only meets the building line of a present covered storage area which is also so we're not approaching anymore, we're just building to the face of the structure which presently exists.

MR. LUCIA: Will the proposed variance have an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

MR. SHAW: We don't feel that it will have an adverse impact at all on the district. Again I described the neighborhood that being relatively undeveloped land with the Thruway one side, the watershed to the other and what we're proposing are 2 relatively small additions, one being 1,200 square foot in area and the other being 3,200 square feet in area relatively small in size.

MR. LUCIA: The marginal increase in the applicant's operation will not substantially impact the environment or the neighborhood?

MR. SHAW: Absolutely not.

MR. LUCIA: And finally, is this condition self-created?

MR. SHAW: Is this condition self-created?

MR. LUCIA: Or the difficulty the applicant faces, is that self-created?

MR. SHAW: No, we don't believe it was self-created. It was created when the lot was originally established prior to 1973. There was a certain amount of area in which you can use on this parcel, it's a little over an acre, a building was originally constructed on an it's been expanded over time, over the years. We cannot purchase additional property and to curtail his business and if you wanted to bring the other line, force him to move, we don't feel that is self-created, it was established just as he has come to live with it so has New Windsor through the variances the board has granted over the years.

MR. LUCIA: Is there an alternate location for the additions which would be suitable to the applicant that might generate no variance or smaller variances than you are requesting now?

MR. SHAW: No, there's only two directions to move, one is towards Union Avenue and I believe we're required to provide 60 foot front yard setback presently we're providing 66 so to take that 3,000 square foot of area and move it to the east, we'd be creating another variance in that respect and the property to the rear it's quite a steep embankment, it's not physically feasible to build an addition in the back area without substantial cost for earth removal and retaining walls and again, that side yard setback we're presently providing is 53 feet and we're required to provide 30 feet. So again, more than likely if we were to take this 24 foot width and put it to the rear of the building, we'd be very close of encroaching on that rear yard setback independent of the cost it would be to construct that addition.

MR. LUCIA: That additional cost would make it uneconomical to put the addition in the rear?

MR. SHAW: Absolutely.

MR. LUCIA: Thank you very much.

MR. TANNER: Greg, is there anyplace we can pick up additional parking spaces in the back?

MR. SHAW: I don't think so. It's a good point. When I was before this board four weeks ago, the proposal before you was that we were looking at a use group for motor vehicle sales, motor vehicle sales, we required one space per one thousand square feet. If you walk into his facility, there's a retail area, there are counters, there are small Harley Davidson items to be purchased. The bulk of this floor is motorcycles, just motorcycles from one end of the building to the other. Practically, that in my opinion is motor vehicle sales which requires a substantially less number of parking spaces. The board felt it was more appropriate to stick to the A1 use group which made us provide one space for every 350 square feet of floor area which practically took the number of parking spaces that were required to provide when we went from motor vehicle sales to retail and double it from a practical point of view, we really don't need additional parking spaces. And the reason that we're showing this greater substantiation is to comply with this board's wishes for retail sales.

MR. LUCIA: I had a conversation with Mark Edsall and he suggested that I present to the board the possibility that I may want to condition this variance on the applicant maintaining this particular use of the property and his analysis are there and I commend it to you is that since we took this as kind of a hybrid operation and put it in the column for retail sales, we're happy with the layout he now has for motorcycles sales. If it were to shift to a different retail sales operation, we might not want to be burned by the parking parameters and the other things we have established be applied assuming it was just for motorcycle use so it probably is a good condition to put on the variance if it is the board's wishes.

MR. SHAW: I can stand before this board and tell them that the number of parking spaces shown is appropriate for this particular use. If you were to just make it pure retail, a strip mall or something of that nature

the parking would not be sufficient and I think it's a good point to have that in the record.

MR. NUGENT: There's a big variance in the building height, is that because of this one?

MR. SHAW: Correct, that is because the four feet which exists which will exist again the new addition and the property line which presently exists between this structure and the property line again it's 4 inches times four feet which is 16 inches which is your 1.3 feet.

MR. NUGENT: I'll accept a motion. Did we have any public?

MS. BARNHART: No.

MR. NUGENT: We have to open it up to the public and seeing that there's no one here from the public, we'll close it and I'll accept a motion from the board.

MR. TORLEY: Move we close the public hearing.

MR. TORLEY: I move we grant the variances.

MR. TANNER: Second it.

MR. LUCIA: Do we want to condition that on the maintenance of the present use of the property?

MR. TORLEY: Absolutely.

MR. HOGAN: With regard to the parking.

MR. LUCIA: Do you want to limit it to parking for all purposes?

MR. HOGAN: I think just the parking.

ROLL CALL

MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE

October 25, 1993

54

MR. TANNER
MR. NUGENT

AYE
AYE

9/93

MORONEY'S CYCLE CENTER

MR. NUGENT: Referred by the Planning Board. Request for 74 ft. total side yard variance and 58% developmental coverage for construction of addition at location on Union Avenue in a C zone.

Gregory Shaw of Shaw Engineering and Pat Moroney appeared before the board for this proposal.

MR. SHAW: With me tonight is Pat Moroney, I'm sure the majority of the board members know. Short and simple, Moroney's Cycle Shop on Union Avenue, it is in the C zone, the lot size is about 47,000 square feet, and in the zone C is design shopping, we're required to provide 40,000 just to give you a feel for the site. What we're proposing are two additions, one is to square off for lack of a better term, the southeasterly corner called addition number one and the second addition designated as addition number 2 and that is to the north that will be approximately 3,136 square feet of space. If you take a look at the zoning schedule, you'll see that as per the building inspector and the Planning Board's engineer's request, I've broken it up two ways, for retail stores and also for motor vehicle sales for those of you who might have ever been in Moroney's Cycle Shop, they sell motorcycles, the bulk of the area in the building, I shouldn't say the bulk, a good percentage is display of motorcycles and with that, there's a repair shop in the back. There's a little bit of office space, and Mr. Babcock felt it was appropriate to break out the schedule for both retail stores which is use one and motor vehicle sales which is use two and then select a variance for the most stringent criteria. He also couched his words carefully he thought this is the way the Zoning Board might like to see it broken up but it may be changed so what we're looking for are two variances. We're looking for a side yard setback in the use one, we're required to provide 70 and we're only providing 26, requiring 44 foot variance. But more stringently motor vehicle sales we're required to provide 100 foot side yard setback both and again we're providing 26 so we need 74 feet. The other criteria is developmental coverage, under retail stores, that is not applicable.

But under motor vehicle sales, and again I think you have to take into context motor vehicle sales is what's normally expected versus a motorcycle sales business, we only are permitted developmental coverage of ten percent, with the new additions, we have a developmental coverage of 68 percent. That may seem a lot but I might add that the 2 additions only increase the developmental coverage by 9 percent so right now, we're at 59 percent before the additions even go up. So, with that, I'll answer any questions you have. There's a bunch of other criteria that I have added under column that denotes pre-existing non-conforming conditions which they did not feel was appropriate for a variance.

MR. LUCIA: Building I think certainly is after zoning so I gather it does not pre-exist zoning.

MR. SHAW: Correct.

MR. LUCIA: Pre-existing, does it pre-exist zoning?

MR. SHAW: Mike, correct me if I am wrong but the way I understand it, from our workshop session, with the addition, we're not increasing the setbacks or any other criteria to a greater degree. Perfect example one side yard setback, we're required to provide either 30 feet or 50 feet dependent on whether it's retail stores or motor vehicle sales or minimum side yard setback is four feet.

MR. LUCIA: Yeah, that is a good example. I think normally pre-existing non-conforming means the building with that 4 foot side yard either pre-existed zoning entirely in the Town of New Windsor in other words existed before January 1.

MR. BABCOCK: Right.

MR. LUCIA: Or if it was zoned differently when this building was put up and that side yard was permitted then it would pre-exist but I'm not sure any zone in Town ever had 4 foot side yard permitted.

MR. BABCOCK: It was OLI, it's just been recently

changed to C.

MR. LUCIA: Four feet would have been under requirement even for OLI.

MR. BABCOCK: Back in 1973, when they got the building permit according to the application it was a GB zone, I'm not sure what that is.

MRS. BARNHART: General Business.

MR. BABCOCK: Before my time of course they do have a building permit and they do have a C.O. for the structure that is there.

MR. TANNER: Including that covered storage area too Mike?

MR. BABCOCK: Well, I'm not going to, I haven't got that far yet but they have.

MR. LUCIA: I see why you call it pre-existing my question is whether or not it's whether this board would consider that.

MR. SHAW: I call it pre-existing because that is how the wording was given to me right now the side yard setback is four feet with putting on addition number one we're building to within four feet of the line. Knowing full well that your side yard for one is 30 feet and 50 feet but because the existing side yard setback one is presently 4 feet, then we can go up to that 4 foot mark and not require a variance. That was the way it was told to me and I hope that it is correct.

MR. LUCIA: I understand your argument, I think this board's understanding of pre-existing non-conforming was legal pre-existing non-conforming.

MR. SHAW: Is there better terminology that would be more appropriate.

MR. LUCIA: The reason I raise it is if you're going to present it this way maybe the board wants to add line

items now to put in 46 foot on one side yard and 74 foot on both I guess. There may be other deficiencies there. I haven't gone over one of them but you know without showing what the GB zone requirements were in 1973, I think the board isn't necessarily going to accept it as a legal pre-existing non-conforming, yes, it is but it may not be there legally, as you may have heard from previous discussions, the building permit was issued improperly, it needed a variance issued but didn't get it, we can address that now.

MR. LANGANKE: So what you're saying we should maybe improve on the variance request?

MR. LUCIA: Yes, unless they can establish that in whatever the requirements for GB zone in 1973 you could go down as close as a 4 foot side yard.

MR. TORLEY: I don't see a down side of adding that variance request to your package.

MR. SHAW: I'm in your hands, I guess I'm a little confused because are we just talking about 4 foot side yard setback? Does that open the door for many more cause there are other pre-existing?

MR. LUCIA: Why don't we go through each of the ones shown as pre-existing, the lot size.

MR. SHAW: Lot size we're, well, here we go. The lot size we're fine with respect to retail stores. But we're not fine for motor vehicle sales requiring five acres.

MR. LUCIA: I guess part of one relevant inquiry how long I mean historically the lot was 4,045 feet before the adoption of zoning it probably is pre-existing.

THE SHAW: Well, this property was formally zoned OLI.

MR. BABCOCK: Yes, OLI.

THE SHAW: What was OLI? Well, I guess what I am saying is what's OLI now, 40000 square feet or what was OLI?

MR. BABCOCK: One of the problems is that this is not a permitted use in an OLI zone so what use do you use? I think that if the board I mean we can modify the denial if we feel that some of these other things are variance request, one variance for basically for the price of the same price, so if you want a new denial we can do that, that is not a problem.

MR. LUCIA: I just need the board's input on what it is they think you should do.

MR. TANNER: Why don't we first decide on which we want to use, use one or use two and then work from that point. My personal preference is use number one.

MR. BABCOCK: In his building permit file, there's an existing, it's not a stamped and I don't know what's changed but there's an existing building 100 by 100 and that is what this building measurement is, is that right?

MR. SHAW: Correct, the original building was this, without this, without any of that, this is your 100 feet by 100 foot that rectangle.

MR. BABCOCK: So it was built with a 20 foot side yard, 70 foot there.

MR. LUCIA: At some point the building was expanded to the south.

THE SHAW: Correct. I think I have paperwork for addition in my file there was a variance that was given for that also.

MR. LUCIA: It may well be pre-existing non-conforming if it has been varied to go all the way out to that covered storage area, maybe we don't have an issue but I think we need the history on it to determine whether you need to put it in as a specific line item.

MR. TORLEY: Do we need a motion on the interpretation?

MR. LUCIA: No, I think Mike can amend the denial.

MR. BABCOCK: What use do you want me to use?

MR. TANNER: In my opinion I think retail store.

MR. BABCOCK: Which is what?

MR. TANNER: Use one.

MR. BABCOCK: Let me explain why in motor vehicle sales most of the display area is outside, that is why you have 5 acres. Mr. Moroney's display area is inside much as a retail store. And he isn't going to be using the outside for displaying the product. I think it's more line with the retail store use even though he's selling motor vehicles.

THE SHAW: If I can interject, I would agree with you but that comes back to haunt us when we go before the Planning Board if it is considered retail, we have to provide one space for every 150 square feet. If you walked in the shop and saw his bikes displayed one parking space for every 150 feet of retail space would not be appropriate. That is how we got into juggling them so please keep that in mind when you deliberate.

MR. TANNER: But we can't use both of them.

MR. LUCIA: Compute out you're required parking for retail store and ask for a variance on it.

MR. TORLEY: That might be easier. It looks like a smaller variance if you are asking for a few less parking spaces than if you are asking for 4 acre variance.

MR. MORONEY: Plus a bike takes up less room than a car.

MR. SHAW: I understand if we feel retail is appropriate, one board member thought it was.

MR. TORLEY: I would go along with that.

MR. HOGAN: I agree.

MR. LANGANKE: I agree.

MR. BABCOCK: Now if we find paperwork where there was a variance issued for this addition, I don't think we have it.

MR. TANNER: That is the covered storage that is my concern. I don't want them to get into trouble with that.

MR. BABCOCK: What we're going to do all the pre-existing ones you're going to give me what the difference is using one in retail except for this one here if you have got a variance for it. We'll say that that variance on the sheet over there instead of saying pre-existing.

THE SHAW: I have a variance for this, not this.

MR. BABCOCK: Then let's ask for it.

THE SHAW: Yeah, this is my problem, cold weather is coming and I'll ask for whatever variances you think is appropriate. I just need to know as quick as possible two weeks unfortunately means a lot so I'd like to at least get this behind us.

MR. BABCOCK: This shouldn't change anything as far as timing we can give him the new numbers tomorrow. What the board is trying to say they are trying to protect you and make sure you're covered.

THE SHAW: I'm not arguing with you.

MR. LUCIA: Just to review if you use the one retail store, you're okay on lot area, you're okay on lot width, you are okay on front yard setback, you need a side yard variance for one side yards, you need a total side yard variance, rear yard setback is fine, street frontage is not applicable, floor area ratio is okay. You need a variance for maximum building height and you'll have to do parking computation for retail sales and apply for whatever variance is needed on the number

of spaces.

MR. SHAW: That is a deal.

MR. BABCOCK: Just as soon as you get me the numbers I'll send you the paperwork.

MR. TANNER: Do you know how wide the covered storage area is by any chance?

MR. MORONEY: About 20 feet.

THE SHAW: This is I'd say it's only about 12 feet.

MR. SHAW: Do you need to see any paperwork?

MR. BABCOCK: The numbers.

THE SHAW: Such as the variance or anything else?

MR. BABCOCK: No, I can do the numbers on the side yard if you can work with me to get them done.

THE SHAW: I'll work with you tomorrow. I'm talking about any variance paperwork, things of that nature.

MR. BABCOCK: No, they'll give it to you right now.

MR. LANGANKE: I make a motion we set him up for a public hearing.

MR. TORLEY: Second it.

ROLL CALL

MR. TANNER	AYE
MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. LUCIA: This is commercial so it is \$150 application fee and \$482 deposit against Town consultant review fees and various disbursements the board has. I'll give you a copy 267B of the Town Law,

September 27, 1993

63

Speak to the 5 specific issues on there, when you return, I'd appreciate it. There's an arrow in the margin next to the applicable paragraphs. Redo your numbers, submit your application and we'll set it up for a public hearing.

9/93

Prelim:
9/27/93.

SET UP FOR P/H

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

Page 1 - of
2 pages

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-29

REVISED
DATE: 9-28-93

APPLICANT: JAMES MORONEY

813 UNION AVE

NEW WINDSOR NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 9-2-93

FOR (~~SUBDIVISION~~ - SITE PLAN)

LOCATED AT UNION AVE 813-817

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 4 BLOCK: 1 LOT: 9.22

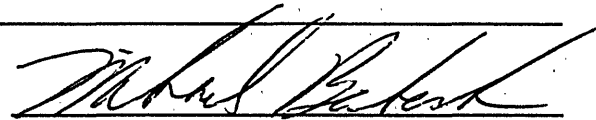
EXISTING CYCLE SALES

IS DISAPPROVED ON THE FOLLOWING GROUNDS: #1 SIDE YARD

#2 TOTAL SIDE YARD

#3 MAX BLDG. HT

#4 O/S PARKING SPACES



MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>C</u> USE <u>A-1</u>		
MIN. LOT AREA	<u>40,000 SQFT</u>	<u>47,045 SQFT</u>
MIN. LOT WIDTH	<u>200 FT</u>	<u>200 FT</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>66 FT</u>

APPLICANT: JAMES MORONEY
813 UNION AVE
NEW WINDSOR NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 9-2-93

FOR (~~SUBDIVISION~~ - SITE PLAN)

LOCATED AT UNION AVE 813-817

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 4 BLOCK: 1 LOT: 9.22

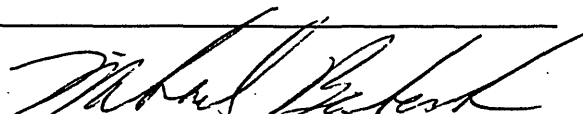
EXISTING CYCLE SALES

IS DISAPPROVED ON THE FOLLOWING GROUNDS: #1 SIDE YARD

#2 TOTAL SIDE YARD

#3 MAX BLDG. HT

#4 O/S PARKING SPACES


MICHAEL BABCOCK,
BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>C</u> USE <u>A-1</u>		
MIN. LOT AREA	<u>40,000 SQFT</u>	<u>47045 SQFT</u>
MIN. LOT WIDTH	<u>200 FT</u>	<u>200 FT</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>66 FT</u>
REQ'D SIDE YD.	<u>30 FT</u>	<u>4 FT</u>
REQ'D TOTAL SIDE YD.	<u>70 FT</u>	<u>26 FT</u>
REQ'D REAR YD.	<u>30 FT</u>	<u>53 FT</u>
REQ'D FRONTAGE	<u>NA</u>	<u>200 FT</u>
MAX. BLDG. HT.	<u>4" / FT = 1.25 FT</u>	<u>17 FT</u>
FLOOR AREA RATIO	<u>0.50</u>	<u>0.37</u>
MIN. LIVABLE AREA	<u>NA</u>	<u>NA</u>
DEV. COVERAGE	<u>NA %</u>	<u>NA %</u>
O/S PARKING SPACES	<u>58</u>	<u>22</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: 10-14-93

APPLICANT: JAMES MOLONEY
813 UNION AVE
NEW WINDSOR NY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 9-2-93

FOR (BUILDING PERMIT): SIGNS

LOCATED AT: 813 UNION AVE

ZONE: C

DESCRIPTION OF EXISTING SITE: SEC: 4 BLOCK: 1 LOT: 9.22

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. TOTAL SQ FT OF FREESTANDING SIGNS
2. TOTAL SQ FT OF WALL SIGNS
3. TOTAL FREESTANDING SIGNS
4. TOTAL WALL SIGNS
5. _____

Michael Bebut
BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

ZONE C USE A-1

TOTAL FREESTANDING
SIGN

1

2

1

FREESTANDING

40 SQFT

100 SQFT

60 SQFT

HEIGHT

#3

#1

DATE: 10-14-93

APPLICANT: JAMES MOLONEY
813 UNION AVE
NEW WINDSOR NY

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: 9-2-93

FOR (BUILDING PERMIT): SIGNS

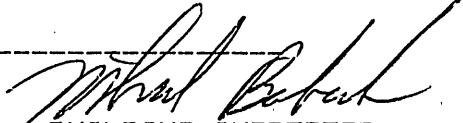
LOCATED AT: 813 UNION AVE

ZONE: C

DESCRIPTION OF EXISTING SITE: SEC: 4 BLOCK: 1 LOT: 9.22

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. TOTAL SQ FT OF FREESTANDING SIGNS
2. TOTAL SQ FT OF WALL SIGNS
3. TOTAL FREESTANDING SIGNS
4. TOTAL WALL SIGNS
5. _____


BUILDING INSPECTOR

PERMITTED

PROPOSED OR
AVAILABLE

VARIANCE
REQUEST

#3	ZONE <u>C</u>	USE <u>A-1</u>		
	TOTAL FREESTANDING SIGN	<u>1</u>	<u>2</u>	<u>1</u>
#1	FREESTANDING	<u>40 SQ FT</u>	<u>100 SQ FT</u>	<u>60 SQ FT</u>
	HEIGHT			
#2	WALL SIGNS	<u>20 SQ FT</u>	<u>118 SQ FT</u>	<u>98 SQ FT</u>
	TOTAL ALL SIGNS			
	FEET FROM ANY LOT LINE			
#4	TOTAL WALL SIGNS	<u>1</u>	<u>6</u>	<u>5</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF
APPEALS.

CC: Z.B.A., APPLICANT, B.P. FILE

September 8, 1993

4

REGULAR ITEMS:

JIM MORONEY'S SITE PLAN (93-29) UNION AVENUE

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. SHAW: I'm sure the board is familiar with Jim Moroney's site on Union Avenue. It's located in the C zone, designed shopping. What we're proposing is to put two additions on to the building, one to the north and one to the south. The one to the south would be approximately 1,200 square feet. It would square off the present configuration of the present building and addition number two would be approximately 3,100 square feet and that would be to the north. Take a look at the zoning schedule, we're required to go to the Zoning Board of Appeals at least that is my opinion and your consulting engineer's opinion that we're required to provide one variance, that being for side yard setback. There are some other non-conforming conditions but they are pre-existing so it is our opinion that they do not require review by the Zoning Board of Appeals. So what I am proposing is that the board reject this application tonight to allow us to go to the Zoning Board of Appeals and to get relief for the side yard setbacks.

MR. VAN LEEUWEN: What's the side yard on the north side?

MR. SHAW: On the north side, it's 22 feet and it's designated as such.

MR. VAN LEEUWEN: I make a motion we approve it.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board approve Moroney's site plan on Union Avenue. Is there any further discussion from any of the board members? If not, roll call.

ROLL CALL

September 8, 1993

5

MR. VAN LEEUWEN	NO
MR. SCHIEFER	NO
MR. LANDER	NO
MR. DUBALDI	NO
MR. PETRO	NO

MR. SHAW: Thank you.

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT—THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the 7th day of October, nineteen hundred and seventy-one
BETWEEN HAROLD ADAMS, residing at Highland Avenue (no number),
Maybrook, New York,

party of the first part, and JAMES MARONEY, residing at R.F.D. #1,
Drury Lane, Rock Tavern, New York,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN & 00/100

(\$10.00) - - - - - dollars,

lawful money of the United States and other good and valuable considerations paid
by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in the Town of New Windsor, County of Orange, State of New
York, and being more accurately bounded and described as follows:

BEGINNING at a point on the westerly side of Union Avenue, said point
of beginning being located 500 feet southerly, as measured along the
westerly line of Union Avenue, from the southeast corner of lands be-
longing to the Town of New Windsor, said point of beginning also being
located 500 feet southerly, as measured along the westerly line of
Union Avenue, from the northeast corner of lands conveyed by Zaklasnik
to Patsalos on the westerly side of Union Avenue by deed recorded in
the Orange County Clerk's Office in Liber 1735 of Deeds at Page 869;
thence from said point of beginning and through lands of Patsalos,
North 60° 55' 45" West 217.96 feet to a point in the easterly line
of the N.Y.S. Thruway; thence along the easterly line of the N.Y.S.
Thruway, on the next two courses and distances, North 20° 18' 25"
East 100.10 feet to a concrete monument; thence North 20° 03' 55"
East 103.30 feet to a point; thence through lands now or formerly
of James Patsalos, South 60° 42' 30" East 249.93 feet to a point in
the westerly line of Union Avenue; thence along the westerly line of
Union Avenue, on the remaining courses and distances, South 29° 17'
30" West 135.42 feet to an angle point; thence South 29° 04' 15"
West 64.58 feet to the point of beginning.

Containing 1.08 acres more or less.

EXCEPTING from the above so much as was conveyed to the N.Y.S.
Thruway Authority and to the Mass. Turnpike Authority.

party of the first part, and JAMES MARONEY, residing at R.F.D. #1,
Drury Lane, Rock Tavern, New York,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN & 00/100

(\$10.00) - - - - - dollars,

lawful money of the United States and other good and valuable considerations paid
by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,
lying and being in the Town of New Windsor, County of Orange, State of New
York, and being more accurately bounded and described as follows:

BEGINNING at a point on the westerly side of Union Avenue, said point
of beginning being located 500 feet southerly, as measured along the
westerly line of Union Avenue, from the southeast corner of lands be-
longing to the Town of New Windsor, said point of beginning also being
located 500 feet southerly, as measured along the westerly line of
Union Avenue, from the northeast corner of lands conveyed by Zaklasnik
to Patsalos on the westerly side of Union Avenue by deed recorded in
the Orange County Clerk's Office in Liber 1735 of Deeds at Page 869;
thence from said point of beginning and through lands of Patsalos,
North 60° 55' 45" West 217.96 feet to a point in the easterly line
of the N.Y.S. Thruway; thence along the easterly line of the N.Y.S.
Thruway, on the next two courses and distances, North 20° 18' 25"
East 100.10 feet to a concrete monument; thence North 20° 03' 55"
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Union Avenue, on the remaining courses and distances, South 29° 17'
30" West 135.42 feet to an angle point; thence South 29° 04' 15"
West 64.58 feet to the point of beginning.

Containing 1.08 acres more or less.

EXCEPTING from the above so much as was conveyed to the N.Y.S.
Thruway Authority and to the Town of New Windsor or County of
Orange for highway purposes.

SUBJECT to such state of facts as an accurate survey and personal
inspection may reveal provided same does not render title unmarketable

BEING a portion of the lands conveyed to James Z. Patsalos by Frank A.
Zakary, Horace L. Zakary, Walter G. Zakary and Robert F. Zakary by
deed dated December 27, 1965 and recorded in the Orange County Clerk's
office on January 27, 1966 in Liber 1735 of Deeds at Page 869.

BEING the same premises described in a deed dated June 10, 1969 made
by James Z. Patsalos to Harold Adams, recorded in the Orange County
Clerk's office on June 23, 1969 in Liber 1822 of Deeds at page 1051.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

[Handwritten signature]

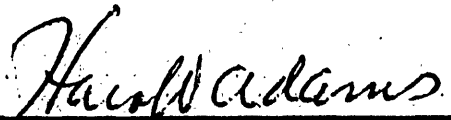
AND TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

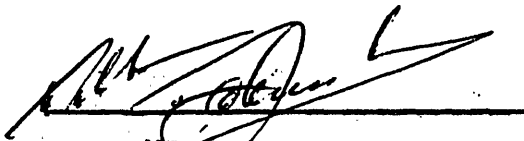
IN PRESENCE OF:



Harold Adams

Orange
On the 26th day of October 1971, before me
personally came HAROLD ADAMS

to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
he executed the same.


MILTON M. SCHUSSHEIM
Notary Public, State of New York
Qualified in Orange County
Orange County No. 544
Commission Expires March 30, 1973

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19, before me
personally came
to me known, who, being by me duly sworn, did depose and
say that he resides at No.

that he is the
of

, the corporation described
in and which executed the foregoing instrument; that he
knows the seal of said corporation; that the seal affixed
to said instrument is such corporate seal; that it was so
affixed by order of the board of directors of said corpora-
tion, and that he signed his name thereto by like order.

On the day of 19, before me
personally came

to me known to be the individual described in and who
executed the foregoing instrument, and acknowledged that
executed the same.

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19, before me
personally came
the subscribing witness to the foregoing instrument, with
whom I am personally acquainted, who, being by me duly
sworn, did depose and say that he resides at No.

that he knows

to be the individual
described in and who executed the foregoing instrument;
that he, said subscribing witness, was present and saw
execute the same; and that he, said witness,
at the same time subscribed his name as witness thereto.

Bargain and Sale Deed

WITHOUT COVENANT AGAINST GRANTOR'S ACTS

TITLE NO. RD - 33 - 1144

HAROLD ADAMS

TO

JAMES MARONEY

SECTION

BLOCK

LOT

COUNTY OR TOWN

3025
550

Recorded At Request of The Title Guarantee Company
RETURN BY MAIL TO:

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by

THE TITLE GUARANTEE COMPANY



10/26/71

SCOTT & HOYT & DRAKE

Box 511, 233 LIBERTY STREET
NEWBURGH, N. Y. 12550

OFFICE

ss: day 25 888 245

LIBER 1888 PG 1047

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----x
In the Matter of Application for Variance of

James Moroney

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#93-41.
-----x

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age
and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On October 14, 1993, I compared the 12 addressed
envelopes containing the attached Notice of Public Hearing with
the certified list provided by the Assessor regarding the above
application for variance and I find that the addressees are
identical to the list received. I then mailed the envelopes in a
U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
14th day of October, 1993.

Patricia E. O'Brien
Notary Public

PATRICIA E. O'BRIEN
Notary Public, State of New York
Residing in County of Orange
No. 4841498
Commission Expires Feb. 28, 1994

(TA DOCDISK#7-030586.AOS)



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(12)

September 29, 1993

Shaw Engineering
744 Broadway
Newburgh, NY 12550

Re: Tax Map Parcel #4-1-9.22

Gentlemen:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$35.00, minus your deposit of \$25.00. Please remit the balance of \$10.00 to the Town Clerk's office.

Sincerely,

Leslie Cook (signature)

LESLIE COOK
Sole Assessor

LC/po
Attachment
cc: [Redacted]

Town of New Windsor
555 Union Ave
New Windsor, NY 12553

Union Avenue Enterprises Inc.
PO Box 87
Newburgh, NY 12550

City of Newburgh
83 Broadway
Newburgh, NY 12550

Goldin, Edward Leon
c/o David Goldin & Son
Box 87
Newburgh, NY 12550

Fenelon Prop. Inc.
600 Route 46
Clifton, New Jersey 07015

Mobil Oil Corp.
Property Tax Department
PO Box 290
Dallas, Texas 75221

Inhalation Therapy Co. Inc.
600 Route 46
Clifton, New Jersey 07015

The City of Newburgh
Newburgh Water Supply
c/o City Comptroller
City Hall
Newburgh, NY 12550

O'Neill, John F. Jr., Maureen Anne & James H.
101 Chestnut Drive
New Windsor, NY 12553

Pavlik, Anthony M. & Mary P.
c/o Mary P. Pavlik
348 Lake Drive
Newburgh, NY 12550

Zawada, Edward J. & Elsa
Silver Stream Rd., RD #2
New Windsor, NY 12553

Stellway, Henry A. & Helene
308 Little Britain Rd.
New Windsor, NY 12553

Patsalos, James Z. &
James S. O'Neill &
Peggy Ann Patsalos
2 River's Edge
Newburgh, NY 12550

Pls. publish today - Send bill to Greg Shanon

PUBLIC NOTICE OF HEARING BEFORE

ZONING BOARD OF APPEALS

TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following proposition:

Appeal No. 41

Request of JAMES MORONEY

for a VARIANCE

of

the regulations of the Zoning Local Law to

permit construction of addition to existing building with insufficient side yard, total side yard, and more than the allowable maximum bldg. height, parking spaces and signage;
being a VARIANCE of

Section 48-12-Table of Use/Bulk Regs. Cols. F,I,N,O

for property situated as follows:

813-817 Union Avenue, New Windsor, N. Y., known and

designated as tax map Section 4-Blk. 1-Lot 9.22.

SAID HEARING will take place on the 25th day of October, 1993, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, N. Y. beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman